IV2220519

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INTERNAL AFFAIRS BUREAU **IV2220519**
INVESTIGATIVE SUMMARY

Subject: **Hernandez, David, Deputy Sheriff, Employee [redacted]**

Unit: **Pico Station**

Date: **Between July 24, 2007 and September 26, 2007.**

Location: **Various Locations in Los Angeles County**

It is alleged, between the above dates, Deputy David Hernandez was in violation of MMP 3-01/030.05, General Behavior and MMP 3-01/030.10, Obedience to Laws, Regulations and Orders.

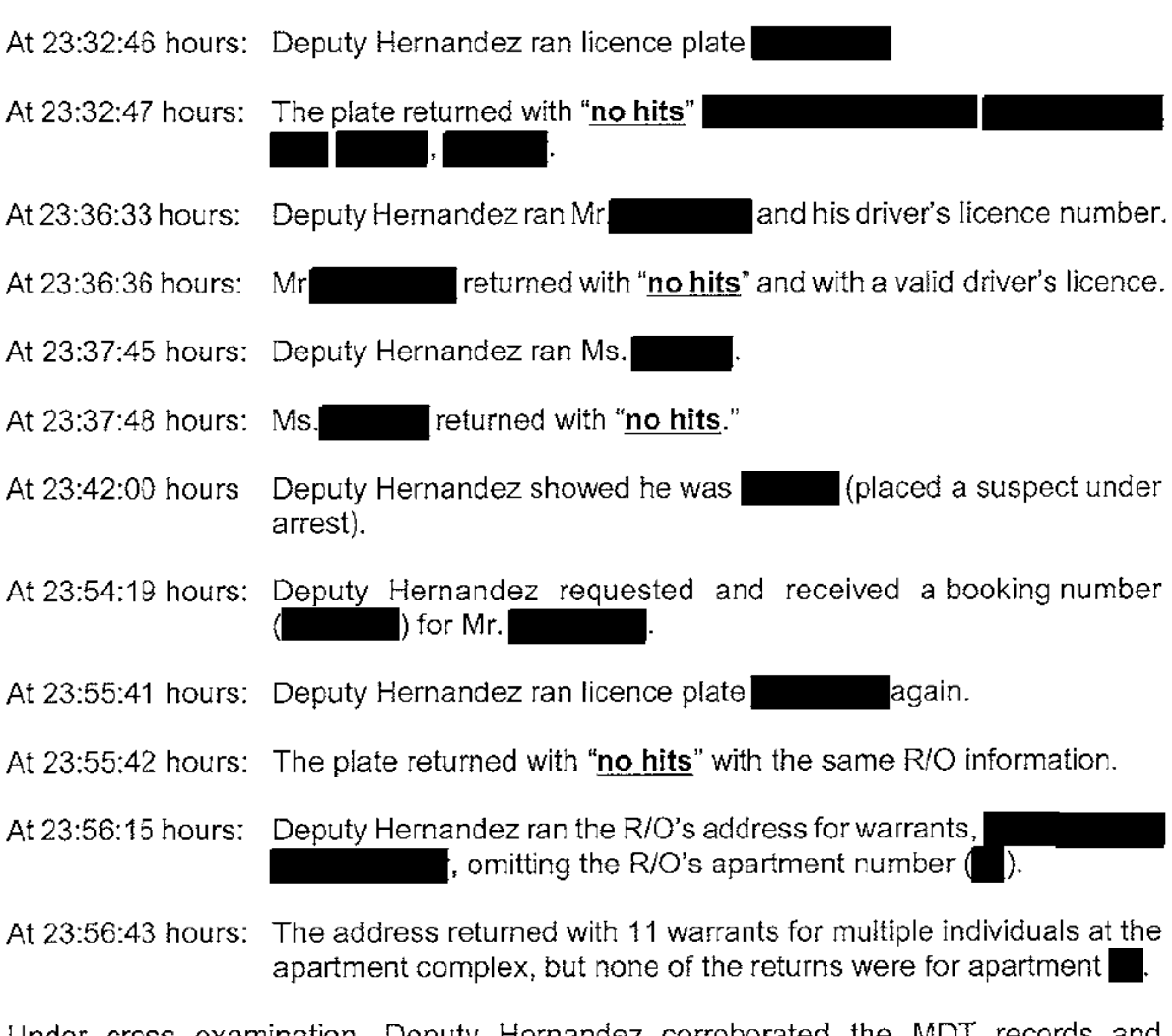
This case involved Deputy David Hernandez, detaining three individuals at [redacted] Whittier Blvd, Whittier on July 24, 2007. Deputy Hernandez, subsequently, arrested Mr. [redacted] on an open charge of possession of cocaine, 11350(a) H/S and Mr. [redacted] for a $30,000, 594(a) P.C. warrant.

The following are the reported facts of Mr. [redacted] contact and arrest, in chronological order, as documented by Deputy Hernandez.

Deputy Hernandez (unit 151B Early Mornings) documented in URN 407-06986-1575-181, that he conducted a patrol check of a 7-11 store parking lot where he ran a parked vehicle's licence plate (CA [redacted] 1996 Toyota Camry) and the registered owner's address [redacted]) for wants and warrants. The vehicle had the above named occupants inside along with Ms. [redacted]. He documented that numerous warrants returned to the R/O address and he then contacted the occupants to determine if any of them were the subjects of the warrants. Deputy Hernandez wrote that he conducted a pat down search of Mr. [redacted] for officer safety and asked Mr. [redacted] if he (Deputy Hernandez) could look inside his wallet for proof of his identification. Deputy Hernandez documented that Mr. [redacted] gave him his consent and that he found a baggie containing cocaine behind Mr. [redacted] driver's licence. He wrote that Mr. [redacted] said the cocaine was his. Deputy Hernandez arrested Mr. [redacted] for possession of cocaine. He also arrested Mr. [redacted] for a warrant that was not associated with the numerous warrant returns from the registered owner's address. Ms. [redacted] was not arrested and was released from her detention.

Prior to the preliminary hearing, Mr. [redacted] Deputy Public Defender, Mr. Lynn Storing, obtained Mobil Digital Terminal (MDT) records dated July 24 and 25, 2007 for Deputy Hernandez. On September 26, 2007, Deputy Hernandez testify at the preliminary hearing. Under direct examination Deputy Hernandez testified to the chronology of events and facts of the arrests as he had documented in his report.

Under cross examination, DPD Storing presented the MDT records to Deputy Hernandez. The records presented to the court showed that Deputy Hernandez's documented report and court testimony of the chronology of events leading to Mr. [redacted] arrest could not and did not occur as he reported and testified. Specifically, the MDT records revealed the following chronology concerning the detention and arrest:



At 23:32:46 hours: Deputy Hernandez ran licence plate [redacted]

At 23:32:47 hours: The plate returned with "**<u>no hits</u>**" [redacted], [redacted].

At 23:36:33 hours: Deputy Hernandez ran Mr [redacted] and his driver's licence number.

At 23:36:36 hours: Mr [redacted] returned with "**<u>no hits</u>**" and with a valid driver's licence.

At 23:37:45 hours: Deputy Hernandez ran Ms. [redacted].

At 23:37:48 hours: Ms. [redacted] returned with "**<u>no hits</u>**."

At 23:42:00 hours Deputy Hernandez showed he was [redacted] (placed a suspect under arrest).

At 23:54:19 hours: Deputy Hernandez requested and received a booking number ([redacted]) for Mr. [redacted].

At 23:55:41 hours: Deputy Hernandez ran licence plate [redacted] again.

At 23:55:42 hours: The plate returned with "**<u>no hits</u>**" with the same R/O information.

At 23:56:15 hours: Deputy Hernandez ran the R/O's address for warrants, [redacted], omitting the R/O's apartment number ([redacted]).

At 23:56:43 hours: The address returned with 11 warrants for multiple individuals at the apartment complex, but none of the returns were for apartment [redacted].

Under cross examination, Deputy Hernandez corroborated the MDT records and chronology. Deputy Hernandez testified he may have made a mistake. He said in court, "I may have Sir, I may have contacted them prior to running their address" (**Exhibit "A" page 69**)

At the conclusion of the preliminary hearing, Judge Mark G. Nelson suppressed the illegal drugs (evidence) found on Mr. [redacted] and granted the defense motion for dismissal of the case. Judge Nelson said it was clear the warrants to the apartment complex were discovered 20 minutes after Deputy Hernandez contacted Mr. [redacted] He said the MDT records were in "complete odds" and "completely irreconcilable" with Deputy Hernandez's court testimony (**Exhibit "A" pages 70-71**).

On April 10, 2008, Los Angeles County Public Defender Michael P. Judge, wrote a letter (**Exhibit "A" pages 4-9**) to the Los Angeles County Sheriff's Department outlining Deputy Hernandez's "misconduct and improper procedures" and "misrepresentations" in court testimony.

On April 24, 2008, the Department opened a criminal investigation regarding Deputy Hernandez's actions and testimony. The investigation resulted in a felony filing of one count of Perjury under Oath, 118(a) P.C. and one count of Filing a False Report, 118.1 P.C. under case [redacted].

On August 25, 2009, Deputy Hernandez entered into a plea deal and pled "no contest" to count two, Filing a False Report as a misdemeanor, with count one being dismissed.

> **IAB Note: See Exhibit "A" ICIB filing package and investigation concerning Subject Hernandez.**

> **IAB Note: See Exhibit "C" for a certified copy of the minutes for court case [redacted] where Subject Hernandez pled "no contest" to count two as a misdemeanor.**

Civilian Witnesses

[redacted]**, contract employee, Sheriff's Communication Center (SCC)** was interviewed on October, 2008 by ICIB Sergeants [redacted] and William Cassidy. The interview took place at Sheriff's Communications Center and was recorded for review.

Mr. [redacted] said he is the "Software Maintenance Programer" for the Los Angeles County Sheriff's Department. He said the only way the time stamps on MDT reports and unit detail reports could be change is by him writing a program to alter the times. He said he has worked for the Department for twenty years and he is not aware of anyone writing a program to change the time stamps or heard of anyone actually changing the time stamps on those reports.

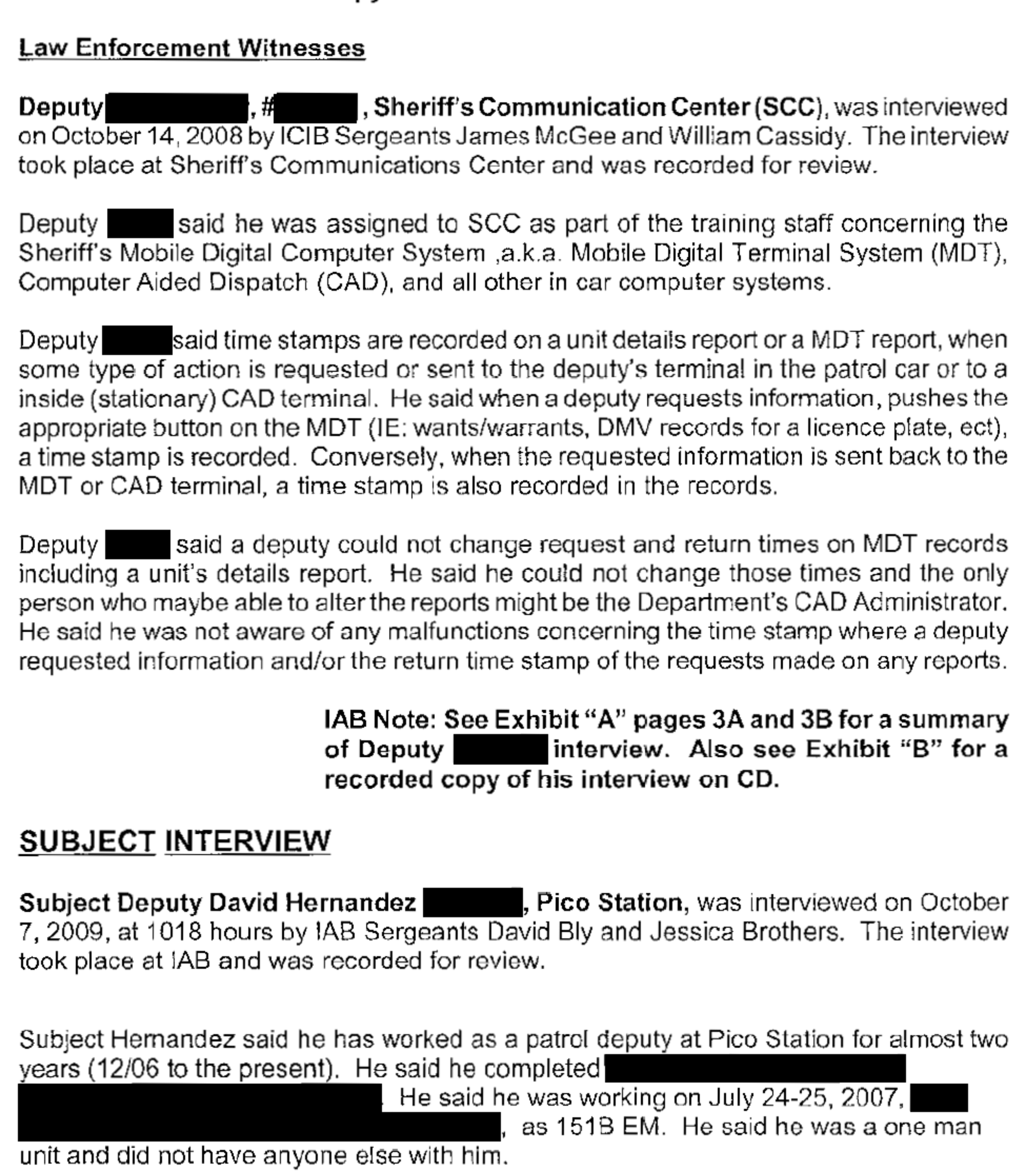
> **IAB Note: See Exhibit "A" page 3C for a summary of Mr. [redacted] interview. Also see Exhibit "B" for a recorded copy of his interview on CD.**

[redacted], [redacted]**, Sheriff's Communication Center (SCC)**, was interviewed on October 22, 2008 by ICIB Sergeant William Cassidy. The interview took place over the telephone and was recorded for review.

Ms. [redacted] said she is the Public Response Dispatcher Specialist for SCC and processes all legal requests and subpoenas for the CAD system and records. She said she remembered a subpoena from the Public Defender's Office requesting records, including Deputy Hernandez's unit history report. She said she complied with the subpoena and

supplied Deputy Hernandez's unit history report and a record of JDIC and CLETS history returns which pertained to Deputy Hernandez's unit history report. She said those records were official Sheriff Department reports and records.

IAB Note: See Exhibit "A" page 3C for a summary of Ms. Poole's interview. Also see Exhibit "B" for a recorded copy of her interview on CD.



Law Enforcement Witnesses

Deputy [redacted], #[redacted], Sheriff's Communication Center (SCC), was interviewed on October 14, 2008 by ICIB Sergeants James McGee and William Cassidy. The interview took place at Sheriff's Communications Center and was recorded for review.

Deputy [redacted] said he was assigned to SCC as part of the training staff concerning the Sheriff's Mobile Digital Computer System ,a.k.a. Mobile Digital Terminal System (MDT), Computer Aided Dispatch (CAD), and all other in car computer systems.

Deputy [redacted] said time stamps are recorded on a unit details report or a MDT report, when some type of action is requested or sent to the deputy's terminal in the patrol car or to a inside (stationary) CAD terminal. He said when a deputy requests information, pushes the appropriate button on the MDT (IE: wants/warrants, DMV records for a licence plate, ect), a time stamp is recorded. Conversely, when the requested information is sent back to the MDT or CAD terminal, a time stamp is also recorded in the records.

Deputy [redacted] said a deputy could not change request and return times on MDT records including a unit's details report. He said he could not change those times and the only person who maybe able to alter the reports might be the Department's CAD Administrator. He said he was not aware of any malfunctions concerning the time stamp where a deputy requested information and/or the return time stamp of the requests made on any reports.

IAB Note: See Exhibit "A" pages 3A and 3B for a summary of Deputy [redacted] interview. Also see Exhibit "B" for a recorded copy of his interview on CD.

SUBJECT INTERVIEW

Subject Deputy David Hernandez [redacted], Pico Station, was interviewed on October 7, 2009, at 1018 hours by IAB Sergeants David Bly and Jessica Brothers. The interview took place at IAB and was recorded for review.

Subject Hernandez said he has worked as a patrol deputy at Pico Station for almost two years (12/06 to the present). He said he completed [redacted]. He said he was working on July 24-25, 2007, [redacted], as 151B EM. He said he was a one man unit and did not have anyone else with him.

Subject Hernandez said he was a defendant in a criminal case in which he was charged with perjury and filing a false report. He said the case involved his contact with three individuals and subsequent arrest of one of the suspects. He said he pled "no contest" to "filing a false police report" and he knew there is no other criminal investigation concerning this event. He said he wrote the (false) arrest report under URN 407-06986-1575-181.

IAB Note: See Exhibit"A" pages 10-19 for a copy of the arrest report authored by Subject Hernandez.

Subject Hernandez said his attention was drawn to a 7-Eleven store at 10437 Whittier Blvd. He said, "I saw a vehicle. I saw that there was three occupants inside (Mr. [redacted], Mr. [redacted], and Ms. [redacted]). It appeared to me that they continued looking back, appeared to be nervous. I ran the vehicle plate. I saw where kind of vehicle it was and where the RO address came back to. I recognized that address to be just, just outside our area or kind of in between our area that we patrol. And I knew that area to be a gang area, drug area, several apartment buildings in that area. And prior to me being able to run the address, the driver stepped out of the vehicle." He said he was in his patrol car behind the suspect vehicle and the occupants saw him.

Subject Hernandez said the driver, [redacted], was subsequently arrested for possession of cocaine. He said he also arrested one other occupant (Mr. [redacted] for a $30,000, 594(a) P.C. warrant) for an outstanding warrant.

Subject Hernandez said there was a discrepancy in his report. He said, as quoted from his transcribed interview:

Bly: The suspect on your, on your 49 there, is that [redacted]?

Hernandez: Yes.

Bly: And what did you ultimately arrest him for?

Hernandez: Possession of cocaine.

Bly: And any time you want to look at your report you can, okay? So you just told me that you saw the vehicle, they were acting a little suspicious so you ran the license plate?

Hernandez: Correct.

Bly: And you did that before you contacted anybody; is that right?

Hernandez: That's right.

Bly: Is that what you documented in your report?

Hernandez: Yes.

Bly: That you, you ran what?

Hernandez: I ran the vehicle plate.

Bly: Did you also document that you, you ran the RO's address?

Hernandez: I documented in that report, however, that is a discrepancy in my report.

Bly: So that didn't happen; right?

Hernandez: I did run the, run the address, but my chronological order in the report is inconsistent from the way it wrote -- the way my MDT log shows.

Subject Hernandez also said, as quoted from his transcribed interview:

Bly: Referring to your report on Page 3, it says that you were conducting a routine license plate, address check of the vehicle's -- of the vehicle. 'A search revealed multiple warrant to the address. See the attached printout;' right? Then it says you contacted the driver and the other two passengers and you detained them, basically, to ascertain if they were the subjects of the warrants; correct?

Hernandez: Correct.

Bly: I know you said that chronologically that isn't what happened, but you wrote, basically, that's why you detained them; correct?

Hernandez: Correct.

Bly: So what's -- which really happened there?

Hernandez: Well, in my mind when I wrote this report, it is my -- it's common -- in my common practice when I do T-stops, every time I run a plate and every -- if I'm gonna -- I know I'm gonna pull them over, I always run the address because I want to know who I'm gonna contact. That's the way I was trained, what I normally do. In this case, not only I did recognize the address to be a problem area, I wrote it this way because that's what I normally do. That's what' I thought I did, and I knew I had ran the plate -- or I knew I had run the address, I just didn't run it until after the fact. I mean, I don't know if this is more maybe consensual contact and, you know, due to the fact I was so new, which is not a great excuse, but I was

only, I don't know, [redacted] I made a mistake on the report.

Subject Hernandez said he asked Mr. [redacted] if he could conduct a pat down search of him for "officer safety reasons". He said, "I'm sure" Mr. [redacted] gave his consent to be searched. He said, "I contacted the driver, saw that there was two other people inside the car. I asked him if I could conduct a pat down search and I'm sure he agreed. I, I don't, I don't recall. This is several months (years) ago but in my common practice regardless if I have probable cause or not, I always do you mind, the way I was taught in the academy, 'Do you mind if I do a pat-down search on you?' I always ask that way. I conducted a pat-down search, from what I remember, I remember there being a bulge in his back pocket. Said it was his wallet. I removed it, put it, I don't know if it was on top of his car, in his car or wherever. And I, I didn't handcuff him. My normal practice, I don't handcuff someone until they're, they're arrested. Held his hands and I , from what I remember, I know another unit pulled up and so I walked the driver to the back seat of my car and put him in my back seat un-handcuffed."

Subject Hernandez said Deputy Madrid (Gerald Madrid [redacted]) backed him up and ran Mr. [redacted] for wants and warrants. He said he documented in his report that he (Subject Hernandez) ran Mr. [redacted] for wants and warrants. He said, as quoted from his transcribed interview:

Bly: It says that you conducted the record checks which revealed a 30 -- 30-thousand warrant.

Hernandez: Right.

Bly: But now you're saying that someone else did that?

Hernandez: That's correct.

Subject Hernandez said while Deputy Madrid was checking Mr. [redacted], he ran Mr. [redacted] and Ms. [redacted] for wants and warrants from his vehicle MDT. He said Mr. [redacted] was in his back seat and Ms. [redacted] was standing in front of his patrol car. He said, "Deputy Madrid contacted the male occupant or passenger in the car and detained him and ran him for warrants. I know it's common for me to take everybody out of the car, so I'm sure I took the female out of the car. And uh usually in my common practice what I do with females is place them, like, near the push bars in the front of the vehicle -- my vehicle, and I had so I could keep an eye on her while I have someone else detained in my back seat. I did a records check to run the driver and of the female passenger. Nothing came back. There were no warrants that came in. Deputy Madrid advised me that this guy had a 30-thousand-dollar warrant. So at that time, I put in my obs, my [redacted], because I knew I was gonna be [redacted] with him. I let the driver ([redacted] out of my back seat and from what I remember, he was -- he was already out of my car and I said let me make sure this guy is telling me who he says he is, so I asked him where his ID was. 'It's in my wallet'."

Subject Hernandez said he found the cocaine inside Mr. [redacted] wallet while he was looking for his identification. He said, "So when I went to retrieve his ID from his wallet, that's when I found the cocaine in his wallet." Subject Hernandez explained he did not already have Mr. [redacted] wallet/ID when Mr. [redacted] was in his back seat and when he had checked him for wants and warrants.

Subject Hernandez said, as quoted from his transcribed interview:

Bly: And since you already patted him down for weapons and he was already in the back seat, why did you go to his wallet?

Hernandez: To confirm he was who he was telling me.

Bly: Right. But why didn't you just -- I mean, he's sitting in your back seat; right?

Hernandez: Yes.

Bly: You're in the front running him?

Hernandez: Yes.

Bly: Why didn't you just say, "Hey, give me your ID"?

Hernandez: I mean, again, when I contact someone, I have my hands on them. They're not handcuffed. I keep my hands on them, took him to my car, and I always ask people, "Who are you?" If I have an -- if I grab an ID right away, sometimes I do, sometimes I don't.

Bly: Yeah, but my question is, is that you're telling me that you -- after he's in your back seat, you get him out and you retrieve his wallet.

Hernandez: Right.

Bly: Why didn't you just say, "Hey, give me your wallet. Give me your ID"? Could have been passed through the window there.

Hernandez: From what I remember, his wallet was back at his vehicle.

Bly: So?

Hernandez: So because I left it --

Bly: In your report where you say you searched him and found it in his back

pocket, that's not right either?

Hernandez: No, I found his wallet in his back pocket and I -- now what I didn't put in the report that I placed it either in his car or on top of his car somewhere near his car, put him in the back seat not with his wallet, and then when I allowed him to go, I wanted to confirm for what he was telling me that this was his name, this is who he was, and that's when I asked him for his ID.

Subject Hernandez said he does not know why, he did not, document in the report that Mr. [redacted] wallet was first placed somewhere else. He said, "I don't know. Just, I mean, looking over this report, there's so many questions I asked myself, why I wrote it this way and again, I know it's not a good excuse to say that I was brand new but it is a piece-of-crap report. And I wrote it -- I have written many reports since this -- since this date and believe me, they're not as bad or near as bad as this one."

IAB Note: See Exhibit "A", pages 20-22 for a print out of Subject Hernandez's Unit Detail Report for unit 151B EM July 25, 2007.

Deputy Hernandez said he may have ran Mr. [redacted] more than once to verify who he was. He said, as quoted from his transcribed interview:

Bly: So -- okay. So I guess I'm unclear. You ran him without his ID?

Hernandez: Yes.

Bly: And then you wanted to verify who he was again?

Hernandez: Correct.

Bly: So that's when you went back and found his ID wherever you had placed it?

Hernandez: Correct.

Bly: And you think maybe you ran him more than once; right?

Hernandez: It's possible, yes.

Bly: And according to your unit details --

Schild: Let me know --

Bly: I see him -- I see him ran once would be at 2336.

Hernandez: Okay.

Bly: Do you have that there?

Schild: I -- we see that.

Bly: And that, unless you see it somewhere else, the next thing is you are drawing a booking number for him.

Hernandez: Okay.

Schild: So, is your concern if he ran it again with the driver's license?

Bly: Well, that's what he said.

Schild: I don't think so.

Hernandez: No, no, no, no, no, no. But what I'm saying is I didn't run him a second time. I knew it was the name he gave me from when I ran it in the car. I went to get his ID to make sure his name was Mr. [redacted] So I remember what -- what he told me. I didn't have to go run it again and --

Bly: So you just verified, but you said you may have ran -- ran him three times.

Schild: And that was with him not looking at the unit --

Hernandez: Right. I -- I don't -- I don't know if I did or maybe ran him one time. Ten times, I don't know.

Bly: You just wanted -- you wanted to get his ID to verify who he was; right?

Hernandez: I mean, in the police experience, it's common for people to give him false -- give people false names because they have warrants or they don't want to say who they are.

Bly: I'm gonna show you your -- your -- it's not your unit details, but it's an MDT report of what you input and what is returned, okay?

Hernandez: Okay.

Bly: I'm just gonna show it -- well, because it's not in order but this is what you input at 2336, which would correlate with the unit details, okay? You ran -- you ran Mr. [redacted] with his DL number.

Hernandez: Okay.

Bly: Okay? You see that?

Hernandez: Yes.

Bly: So we have only one documentation of you running him and it's with his DL.

Hernandez: Okay.

Bly: Does that information jog your memory? Do you want to change anything?

Hernandez: No.

Bly: So but you remember not running him with his DL?

Hernandez: No, no, that's not what I said. What I said is I had him in the back seat, and I asked him, "What's your name?" I'm sure I asked him, "Do you know your CDL?" It's common for me.

Subject Hernandez said he ran Mr. [redacted] once while he was in his back seat. He said Mr. [redacted] verbally told him all the information he needed to run him, including his CDL number. He said, "I put him in my back seat. I run his, I run him with his CDL, his first and last name, and his date of birth. I then contact Deputy Madrid tells me that the person he contacted has a 30-thousand-dollar warrant. During this time, I also, I'm also running the female."

Subject Hernandez was asked if his report reflected the facts that he had just talked about so far in his interview. He said, as quoted from his transcribed interview:

Bly: That's where we're at. All right. In your report, though, you document a different story; correct?

Hernandez: Correct.

Bly: What you document doesn't resemble anything that you just told me.

Hernandez: It's inaccurate.

Bly: My question is, what you documented, does it resemble anything that you just told me?

Schild: Hold on. That's for the department to decide.

Bly: That's a question him asking him.

Schild: Tell me what you mean by –

Bly: What..

Schild: -- "resemble."

Bly: What you documented is it the same facts that you just laid out to me?

Schild: He's already told you it's inaccurate.

Bly: I'm asking this question, so please answer it, okay?

Hernandez: Yes, sir.

Bly: What you documented, is it the same facts that you just told me?

Hernandez: The chronological order is wrong.

Bly: So did you contact him to verify if he was a subject of warrants?

Hernandez: Did I contact the driver?

Bly: Yes.

Hernandez: Yeah, I knew where he lived. I knew there was warrants to -- to that --

Bly: How did you know that?

Hernandez: I -- [redacted], which is not too far away.

Bly: So you don't -- you didn't see any warrants printed out on any machine; right?

Hernandez: No.

Bly: So you're assuming he lived at this apartment place; right? Because you didn't really know?

Hernandez: Correct.

Bly: You're assuming that he might probably the RO, he lived at this -- this apartment complex; right?

Hernandez: Correct.

Bly: So you're contacting him to do what?

Hernandez: Contacting him, you know, to do a warrant investigation.

Bly: Okay.

Hernandez: But -- but all -- but also, I mean, which I didn't lay out in the report, I mean, they were doing, you know, acting suspiciously. He was -- you know, they're all looking back at me. It appeared that he tried to exit his vehicle.

Bly: So my question is what you documented in your report -- is the facts of what you documented in your report different than what you're telling me today?

Schild: And he's answered this question like four times.

Bly: No, he has not.

Hernandez: Yes, it's different.

Bly: And it's different because why?

Hernandez: Because I made a mistake in my report.

Subject Hernandez said what he documented in his report and the real events that occurred that night are factually different. He said he did find the cocaine in Mr. [redacted] wallet and he does not remember if his vehicle was searched or not.

Subject Hernandez said his common practice is to ask suspects if he could search them. He said he is not 100 percent sure if he asked Mr. [redacted] if he could search him or not. He said, "I -- it's my common practice to ask them, 'Do you mind if I search you for your safety and mine?' I can't tell you that's absolutely one hundred percent sure what I asked him. I -- I don't know. I really don't. I guess -- it is -- it is possible, but in my common practice what I normally do in almost every one of my pat-down search, I always ask." He said he does not remember, what he said or did not say, to Mr. [redacted] concerning the search.

Subject Hernandez was asked why he ran the address associated to the registered owner of the suspect vehicle after he had already placed Mr. [redacted] under arrest. He said, as quoted from his transcribed interview:

Bly: And looking -- did you put your unit details away? Looking at your unit details, actually 20 minutes passed from the time that you ran the license plate until you ran the address for warrants. If you want to look at that; is that correct?

Schild: You want it -- refer us to what tags you're looking at?

Bly: The time would be 2332.

Schild: Okay. That's when the vehicle license plate was ran?

Bly: When you ran it the first time and then you ran for warrants to [redacted]. at 2356. So I guess it's a little longer than 20 minutes.

Schild: You're asking --

Bly: Actually, that's when the return came but, yeah.

Schild: You're asking if that's what the unit detail says?

Bly: Do you see that?

Hernandez: Yes.

Bly: It's over 20 minutes elapsed, right?

Hernandez: Yes.

Bly: And in between that, you actually pull a booking number for [redacted] at 2354; is that right?

Hernandez: Correct.

Bly: So what was the purpose of running the location after you already placed him under arrest?

Hernandez: For what I remember, it's to confirm my belief that there were warrants at that address.

Bly: But what would be the purpose of that if you already have him under arrest for cocaine and you already ran him and you came back with nothing?

Hernandez: Because I -- from what I believed in my mind, I don't know if in my mind I already -- I thought I had already ran his address and I just ran it again to confirm my belief that there were warrants. But from what I remember, I knew there were warrant at that address. I -- I was sure and I ran it again at 2356, and that's what the search revealed.

Bly: When did you write this report?

Hernandez: That evening or that night or morning.

Bly: Same shift?

Hernandez: Yes.

Subject Hernandez said he did not modify his log or unit details. He said according to his unit details he obtained a URN number, wrote a Probable Cause Deceleration, booked Mr. [redacted], booked the evidence, and was back in the field within approximately 90 minutes. He said he does not know how he could have written a report that was not factually truthful or that was not consistent with the events of the detention. He said, "I don't know. I -- I -- I made a mistake. I, you know, only thing I could think of, I know prior to this incident, I went to a baby-not-breathing call. Prior -- prior to this stop. I was actually on a call, baby-not-breathing call. I'm sure that call rattled me, you know? I didn't know if, you know? I could only assume or think that maybe it came into play."

Subject Hernandez said he was familiar with the concepts of "working backward" and "work your way back." He said, as quoted from his transcribed interview:

Bly: Are you familiar with the term to "work backward" or to "work your way back"? Are you familiar with that?

Hernandez: I've heard it before.

Bly: What does it mean or what do you think it means?

Hernandez: Work backwards? I don't know.

Bly: You've heard it but you don't know what it means?

Hernandez: I mean, if you're trying to say, you know, oh, you had something tonight, you got to work backwards and find out what you got and what --

Bly: Like, figure out some way to take a guy to jail, a person to jail?

Hernandez: I don't do that, sir.

Bly: Well, I'm asking, is that your understanding of what that --

Hernandez: Yes.

Bly: Were you ever trained by anyone to work your way back or work your way backwards?

Hernandez: No.

Subject Hernandez said he did not manufacture probable cause and facts to detain Mr. [redacted] that, subsequently, lead to his arrest. He said, "In my mind, I ran the plate, as you can see. I ran the plate. I knew where he came back to, okay? In my mind, I knew there was warrants to that specific building. Believing he possibly maybe the RO of the vehicle. When I wrote this report, I believe the way -- the way I wrote this is the way I believe at the time that these events occurred. I thought, like I said, and as you can see in -- when you see I'm back in the field and I run the vehicle (unrelated vehicle), right after I run that vehicle, I run the address, as you can see at 1:26. That's my common practice. That's what I do all the time. I mean, I have -- that's the way, you know, I. In this -- in this case -- in this particular case it didn't happen that way. That's why it doesn't make sense. I understand it doesn't make sense, but if I wanted to lie, if that's what you're trying to get at. But it just -- it -- it's -- talk about a stupid rookie mistake but that's -- and it's inexcusable, but that's what happened here. I'm not a criminal. I'm not trying to put people in jail by illegal means, to make up a PC or to say I found cocaine in his car but yet I found it in his wallet. I would never do that, I haven't done that. It -- it's easy to take people to jail. There's no reason to lie. There's no reason to go that route."

IAB Note: See Exhibit "D" for copies of Subject Hernandez's unit details from May 1, 2007 through July 21, 2007 (as a one person unit). Although, his unit details do not document, in all cases, Subject Hernandez's traffic stops, it does document all the license plates he ran during the above months. During the above time period, after he was [redacted] and before this incident (July 25, 2007), out of approximately 536 times he ran license plates, Subject Hernandez immediately ran 153 address locations. In those 153 occasions, it is vastly unclear if Subject Hernandez conducted a traffic stop based on the address returns, whether warrant returned to the address or not.

Subject Hernandez said he was trained to write his reports as a "summary" of events. He said, "I understand the police report is a summary of what happened at that place -- in this event. Yes. It's a summary of what happened. And that is the way I was trained. Obviously, don't get me wrong, I'm not saying I'm gonna be vague in my police reports because that's -- I -- that leaves more holes for a public defender or a defense attorney to ask."

Subject Hernandez again stated his common practice would be to run a license plate check on his MDT, and then run the registered owner's address for a warrant check. He said, as quoted from his transcribed interview:

Bly: If you look on the last page it -- at 0654, you ran a vehicle and you didn't run an address. 0654?

Hernandez: Right, I don't know what vehicle that was. It's hard to say because a couple minutes after I'm already logging off so I could have been inside of the station parking lot. I -- I don't know.

Bly: And you pointed out to me that after you went ten-eight from booking, you ran a license plate?

Schild: Where are you just for --

Bly: This would be the top of Page 3 of that report?

Schild: Is there a certain time?

Bly: 1:26.

Schild: Okay.

Bly: Correct?

Hernandez: On (inaudible)?

Bly: Yeah.

Hernandez: Okay.

Bly: You ran the address?

Hernandez: Yes.

Bly: Warrant came back?

Hernandez: It appears so for a [redacted]

Bly: Did you stop to ascertain if the person in that car was the subject of that warrant?

Hernandez: I don't -- I don't know.

Bly: Does your our unit details reflect that you did.

Hernandez: No, so, obviously, no, I didn't.

Bly: Then at 2315, first page, you ran a license plate 2315 hours.

Hernandez: Okay.

Bly: Did you run a location associated with that plate? Or did you run a location after that?

Hernandez: No. I don't know was I on a call or --

Bly: It looks like you're [redacted] from a call, two minutes after -- or two minutes before, excuse me.

Hernandez: So I don't -- again, I don't recall so I don't know if that plate related to that call or I don't know. I don't -- I don't know.

IAB Note: For further information see Subject Hernandez's transcribed interview.



County of Los Angeles
Sheriff's Department Headquarters
4700 Ramona Boulevard
Monterey Park, California 91754-2169



March 17, 2010

Deputy David Hernandez, #[redacted]

Dear Deputy Hernandez:

You are hereby notified that it is the intention of the Sheriff's Department to suspend you without pay from your position of Deputy Sheriff, Item No. 2708A, with this Department for a period of fifteen (15) days.

An investigation under IAB File Number 2220519, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

1. That in violation of Manual of Policy and Procedures Sections 3-01/030.05, General Behavior; and/or 3-01/050.10, Performance to Standards; and/or 3-01/040.70, False Statements, on or between July 24, 2007 and September 26, 2007, you failed to establish and maintain the highest standards of efficiency in carrying out the functions and objectives of the Department and/or failed to conform to the work standards established for your position as a deputy sheriff, when you falsified an official police report to reflect a different chronology of events that occurred during an arrest and/or you gave false testimony in court relative to the arrest, as evidenced by, but not limited to:

   a) on or about July 24, 2007, you falsified an official police report to reflect that you ran the suspect vehicle's license plate prior to removing Suspects [redacted] and [redacted] from the vehicle, and/or;

   b) indicating in your report that there were multiple arrest warrants that came back to Suspect [redacted] specific home address, and/or;

c) giving false testimony in court on September 26, 2007, by testifying that you ran the suspect vehicle's license plate prior to removing the suspects from the vehicle, and/or;

d) that when you ran the suspect's vehicle, there were multiple arrest warrants that came back to Suspect [redacted] specific home address.

As a result of your actions, on April 21, 2009, you were criminally charged with one (1) Felony count of 118(a) P.C., Perjury Under Oath and one (1) Felony count of 118.1 P.C., Filing a False Report. By your actions, you have brought discredit upon yourself and the Sheriff's Department.

2. That in violation of Manual of Policy and Procedures Sections 3-01/030.05, General Behavior and/or 3-01/030.10, Obedience to Laws, Regulations and Orders, on or about August 25, 2009, you pled nolo contendere to Misdemeanor 118.1 P.C., Filing a False Report. By your actions, you have brought discredit upon yourself and the Sheriff's Department.

Prior to determining this disciplinary action, I have thoroughly reviewed the incident and your record with this Department.

You have the right to grieve this disciplinary action within ten (10) business days of receipt of this letter. Your grievance procedures may be found in your classification's negotiated Memorandum of Understanding.

Failure to respond to this Letter of Intent within ten (10) business days will be considered a waiver of your right to grieve and will result in the imposition of this discipline indicated herein.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

LEROY D. BACA, SHERIFF

Original Signed

James C. Thornton Jr., Captain
Commander, Pico Rivera Station

JCT:KM:md

c: Advocacy Unit
Employee Relations Unit
Thomas M. Laing, Chief, Field Operations Region III
Internal Affairs Bureau
Office of Independent Review (OIR)
(File # IAB 2220519)

EDUCATION-BASED DISCIPLINE AGREEMENT

This Agreement is entered into between the Los Angeles County Sheriff's Department, hereinafter referred to as "Department," and Deputy David Hernandez, Employee No. [redacted] hereinafter referred to as "Grievant."

The Department and Grievant are parties to this dispute and desire to settle all issues involved in IAB No. 2220519 upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, the Department and Grievant for and in consideration of the mutual covenants contained herein, agree as follows:

1. Both parties agree that the fifteen (15) day suspension shall stand.

2. The Department will, upon execution of this Education-Based Discipline (EBD) Agreement, hold the fifteen (15) suspension days in abeyance. Grievant will receive back pay for the period of time he was relieved of duty. Further, the below listed language shall be removed from the Letter of Imposition:

> *As a result of your actions, on April 21, 2009, you were criminally charged with one (1) Felony count of 118(a) P.C., Perjury Under Oath and one Felony count of 118.1 P.C., Filing a False Report. By your actions, you have brought discredit upon yourself and the Sheriff's Department.*

3. Both parties agree and understand that the Grievant's records will reflect that the fifteen (15) day suspension was imposed and may be used for the purposes of demonstrating "progressive discipline." In addition, the Grievant understands that he will be subjected to additional discipline for each and every founded violation of the Department's Manual of Policy and Procedures.

4. The Grievant further agrees to attend and complete the below listed EBD courses and understands that failure to complete all of the courses and assignments shall result in the imposition of the fifteen (15) days held in abeyance:

- Lieutenant's Interactive Forum for Education (LIFE) class (8 hours)
- 7 Habits of Highly Effective People course (24 hours)
- Deputy Leadership Institute (DLI) course (16 hours)
- Imagine 21 course (32 hours)
- Ethical Decision Making class (8 hours)
- Write an EBD evaluation reflecting on your experience with the EBD process

5/25/10

5. The Department may adjust the Grievant's schedule to participate in EBD courses and EBD items, as EBD is conducted on-duty.

6. The Grievant agrees to cooperate with his Unit Commander to complete the courses as soon as practicable, but no longer than one (1) year from the date of execution of this EBD Agreement.

7. The Grievant further agrees to waive any and all further administrative or judicial remedies with respect to the Letter of Imposition and the modified discipline, and also waives any administrative or judicial remedies with respect to any imposition pursuant to paragraph three (3), above. This waiver shall include, but not be limited to, appeals to the Los Angeles County Civil Service Commission and/or the Los Angeles County Employee Relations Commission.

8. The parties further agree that this EBD Agreement shall not be considered, cited, or used in future disputes as establishing past precedent or past employment practice.

9. In consideration of the terms and conditions set forth herein, Grievant agrees to fully release, acquit and forever discharge the County, and all present and former officers, employees and agents of the County, and their heirs, successors, assigns and legal representatives from any and all liability whatsoever for any and all claims arising out of or connected with the employment relationship between the County and Grievant concerning the subject matter referred to herein.

10. The Grievant further agrees to relinquish and expressly waives all rights conferred upon him by the provisions of California Civil Code Section 1542, which reads as follows:

> "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

11. The date of the last signature placed hereon shall hereinafter be known as the "date of execution" and the "effective date" of this EBD Agreement.

12. The parties agree that the foregoing comprises the entire EBD Agreement between the parties and that there have been no other promises made by any party. Any modification of this EBD Agreement must be in writing.

I have read the foregoing EBD Agreement, and I accept and agree to the provisions contained therein and hereby execute it voluntarily and with full understanding of its consequences.

Date: 05-14-10

David Hernandez, Deputy

Date: 5/18/10

Thomas Laing, Chief



County of Los Angeles
Sheriff's Department Headquarters
4700 Ramona Boulevard
Monterey Park, California 91754-2169



June 7, 2010

Deputy David Hernandez, #[redacted]

Dear Deputy Hernandez:

On March 17, 2010, you were served with a Letter of Intention, indicating your right to respond to the Sheriff's Department's pending disciplinary action against you, as reported under IAB File Number 2220519. You were also advised of your right to review the material on which the discipline was based.

You are hereby notified that pursuant to an Education-Based Discipline (EBD) Agreement between you and this Department dated May 18, 2010, you are suspended without pay from your position of Deputy Sheriff, Item No. 2708A, with this Department for a period of fifteen (15) days. However, pursuant to the EBD agreement, the fifteen (15) days will be held in abeyance for a period of twelve (12) months which will end on May 17, 2011. All Department records will reflect, nevertheless, that you received a fifteen (15) day suspension. In accordance with the EBD Agreement, you have agreed to participate in an education-based alternative to discipline. Should you fail to complete any of the terms and conditions of the EBD Agreement, the fifteen (15) days held in abeyance will be imposed.

An investigation under File Number IAB 2220519, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

1. That in violation of Manual of Policy and Procedures Sections 3-01/030.05, General Behavior; and/or 3-01/050.10, Performance to Standards; and/or 3-01/040.70, False Statements, on or between July 24, 2007 and September 26, 2007, you failed to establish and maintain the highest standards of efficiency in carrying out the functions and objectives of the Department and/or failed to conform to the work standards established for your position as a deputy sheriff, when you falsified an official police report to reflect a different

chronology of events that occurred during an arrest and/or you gave false testimony in court relative to the arrest, as evidenced by, but not limited to:

a) on or about July 24, 2007, you falsified an official police report to reflect that you ran the suspect vehicle's license plate prior to removing Suspects [redacted] and [redacted] from the vehicle, and/or;

b) indicating in your report that there were multiple arrest warrants that came back to Suspect [redacted] specific home address, and/or;

c) giving false testimony in court on September 26, 2007, by testifying that you ran the suspect vehicle's license plate prior to removing the suspects from the vehicle, and/or;

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2. That in violation of Manual of Policy and Procedures Sections 3-01/030.05, General Behavior and/or 3-01/030.10, Obedience to Laws, Regulations and Orders, on or about August 25, 2009, you pled nolo contendere to Misdemeanor 118.1 P.C., Filing a False Report. By your actions, you have brought discredit upon yourself and the Sheriff's Department.

Prior to imposing this disciplinary action, I have thoroughly reviewed the incident and your record with this Department.

You will hereby take notice that any future acts of misconduct may result in more severe disciplinary action.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

LEROY D. BACA, SHERIFF

Original Signed

James C. Thornton Jr., Captain
Commander, Pico Rivera Station

Note: Attached for your convenience are excerpts of the applicable areas of the Manual of Policy and Procedures.

JCT:KM:md

c: Advocacy Unit
Thomas M. Laing, Chief, Field Operations Region III
Internal Affairs Bureau
Personnel Administration
Office of Independent Review (OIR)
Pico Rivera Station/unit Personnel File